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3 **CC: Legal Services**
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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 BRETT PATRICK PENSINGER,

12 Petitioner,

13 v.

14 KEVIN CHAPPELL, Warden of
15 California State Prison at San
16 Quentin,

17 Respondent.

CASE NO. CV 92-1928 DSF

DEATH PENALTY CASE

JUDGMENT

18 **IT IS ORDERED** that Petitioner Brett Patrick Pensinger's petition for writ
19 of habeas corpus be **CONDITIONALLY GRANTED** and that the judgment of
20 conviction on the special circumstance and the sentence of death in the matter of
21 People v. Brett Patrick Pensinger, Case No. SCR 38261 of the California Superior
22 Court of San Bernardino County, be **VACATED**.

23 **IT IS FURTHER ORDERED** that the State of California shall, within 120
24 days from the entry of this Judgment, either grant Petitioner a new trial on the
25 special circumstance allegation, or vacate the special circumstance finding and
26 death sentence and resentence Petitioner in accordance with California law and the
27 United States Constitution.

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1 **IT IS FURTHER ORDERED** that the Clerk of this Court shall
2 immediately notify the Warden of San Quentin Prison of this Court's judgment.

3 **IT IS SO ORDERED.**

4 Dated: 11/30/12

A handwritten signature in blue ink that reads "Dale S. Fischer". The signature is written in a cursive, flowing style.

DALE S. FISCHER
United States District Judge